

PATENT APPLN. NO. 10/695,460
RESPONSE UNDER 37 C.F.R. §1.111

**PATENT
NON-FINAL**

REMARKS

Claims 1 and 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 2002-360593 ("Kiyoshige") in view of Grasso, U.S. Patent No. 6,375,651.

Applicants believe that the 35 U.S.C. 103(a) rejection is based on a broad interpretation of claim 1 of the present application as reading on the graft grasping device of Kiyoshige (except for the recessed portion being covered with a sheet having a plurality of pores, and a mesh sheet being provided in a space defined between the recessed portion and the sheet). Thus, for example, the Office has identified the slit formed in the grasping device of Kiyoshige (referring to the drawings on page 3 of the Action where the Office has identified the elements of the device of Kiyoshige that correspond to the elements of the graft grasping device of the present invention as recited in claim 1) as being "formed in a longitudinal direction of the tube" as required by claim 1 and has also taken the position that the graft grasping portion of the graft grasping device of Kiyoshige has a C-shaped cross section.

Applicants respectfully submit that the Office's interpretation of claim 1 is not a reasonable interpretation of claim 1 consistent with the specification. However, applicants

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have amended claim 1 to recite that graft grasping portion of the graft grasping device of their invention is in the shape of a cylindrical tube having a lumen and a slit formed in a longitudinal direction of the tube.

The limitation that the graft grasping portion of the graft grasping device of the present invention is in the shape of a cylindrical tube is supported by Figs. 1, 6 to 9, 11 and 12 and by the description in the specification of the present application of the graft grasping portion 11 as a "tubular-shaped member" and as having "a length of about 10 mm and an inner diameter of about 5 mm" (see paragraph [0041] of the publication of the present application, U.S. Publication No. 2004-0138649).

The circular hollow tube of Kiyoshige is a ring and cannot properly be characterized as a cylindrical tube.

A new claim, claim 7, has been added to the application to provide an alternative definition of the graft grasping device of the present application. New claim 7 recites that the graft grasping portion is in the shape of a cylindrical tube having a lumen and a longitudinal axis and that the slit is formed along the length of the tube parallel to the longitudinal axis of the tube.

The graft grasping portion of the graft grasping device of claim 1 as amended and the graft grasping portion of the graft

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grasping device of new claim 7 do not read on the graft grasping portion of the device of Kiyoshige. In light of this fact and the fact that Grasso has been cited only as teaching the limitations of claim 1 (now also recited in new claim 7) relating to a sheet having a plurality of pores, and a mesh sheet being provided in a space defined between the recessed portion and the sheet, the combination of Kiyoshige and Grasso do not support a case of *prima facie* obviousness of the claims of the present application under 35 U.S.C. § 103(a). Removal of the 35 U.S.C. § 103(a) rejection is in order and is respectfully solicited.

Applicants note with appreciation the indication by the Office that claims 2 and 3 are allowable if rewritten in independent form. However, applicants believe that rejection to claims 1 and 4 to 6 has been overcome in view of the amendments above. Therefore, claims 2 and 3 are believed to be allowable in their present form without amendment.

The foregoing is believed to be a complete and proper response to the Office Action dated August 19, 2005, and is believed to place this application in condition for allowance. If, however, minor issues remain that can be resolved by means of a telephone interview, the Examiner is respectfully requested to contact the undersigned attorney at the telephone number indicated below.

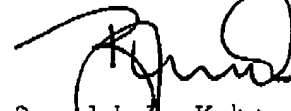
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In the event that this paper is not considered to be timely filed, applicants hereby petition for an appropriate extension of time. The fee for any such extension may be charged to our Deposit Account No. 111833.

In the event any additional fees are required, please also charge our Deposit Account No. 111833.

Respectfully submitted,
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